

JAN 17 2003

STATE OF SOUTH CAROLINA  
DEPARTMENT OF INSURANCE

**Before the State of South Carolina  
Department of Insurance**

In the matter of:

Mr. Richard A. Berry  
2330 Springs Street  
Hamer, South Carolina 29547.

SCDOI File Number 2002-116263

**Consent Order  
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the South Carolina Department of Insurance and Richard A. Berry, an insurance agent licensed to transact business in the State of South Carolina.

Based on evidence received by the Department, the respondent hereby admits, and I find as fact, that he had a "debit balance" due to a death charge back in his commission account with Reliance Standard Life Insurance Company, for an approximate amount of \$4,950.00. This is a direct violation of Chapters 43 and 45 of the South Carolina Code of Laws. Sections 38-45-140 and 38-43-130 (Supp. 2002) grant the Director of Insurance the power to "revoke... an insurance agent's license... when it appears that an agent has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."

Prior to the initiation of any administrative proceedings by the Department against Mr. Berry or his agency, the parties agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Richard A. Berry would waive his right to a public hearing and pay an administrative fine in the total amount of \$250.00.

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that Richard Berry has violated S.C. Code Ann. § 38-43-130 (Supp. 2002). Under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. § 38-2-10 (2) (Supp. 2002), I hereby impose against Richard Berry a fine in the amount of \$250.00, which must be paid within fifteen days upon receipt of this consent order. If that total fine amount is not timely paid, Richard Berry's license to transact the business of insurance will be revoked without any further disciplinary proceedings.

This administrative penalty has been reached by the parties as a result of negotiation and compromise, and it is made in light of the fact that Mr. Berry has refunded the whole amount to the Insurer. It is also made in consideration of Richard Berry's assurance that he will fully comply with the insurance law of South Carolina in the future.

By the signature of one of its officers or authorized representative upon this consent order, the Agency acknowledges that it understands that this administrative order is a public

record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10 *et seq.* (1991 and Supp. 1998). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1998), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Richard A. Berry must pay through the South Carolina Department of Insurance an administrative fine in the amount of \$250.00 within fifteen days upon receipt of this order.

Finally, it is also ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.

A handwritten signature in dark ink, appearing to read "E.N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar  
Director

Jan 24 2003  
~~December 4, 2002~~, at  
Columbia, South Carolina

I CONSENT:

Richard A. Berry  
Signature

RICHARD A. BERRY  
Name

AGENT  
Title

Richard A. Berry  
2330 Springs Street  
Hamer, South Carolina 29547

Dated this 15 day of January 2003.